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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054165
Party	Defendant Children's Apparel Network, Ltd.
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Submission	Answer
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Date	09/06/2011
Attachments	Answer 92054165.pdf ( 4 pages )(21347 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the Matter of Reg. No. 3811758  
for the trademark BABY REBELS*

-----X  
EYAL BALLE,

Petitioner,

v.

CHILDREN’S APPAREL NETWORK, LTD.,

Registrant.  
-----X

**Cancellation No. 92054165**

**ANSWER AND AFFIRMATIVE  
DEFENSE TO PETITION  
FOR CANCELLATION**

Registrant Children’s Apparel Network, Ltd. (“Registrant”), through its attorneys, Amster, Rothstein & Ebenstein LLP, for its Answer and Affirmative Defenses to the Petition for Cancellation (the “Petition”) filed by Eyal Balle (“Petitioner”), states as follows:

1. Registrant admits the allegations contained in ¶1 of the Petition.
2. Registrant admits the allegations contained in ¶2 of the Petition, except Registrant affirmatively states that the dates of first use stated in Registration No. 3811758 (“the ‘758 Registration”) are incorrect and should instead read “at least as early as March 1995.”
3. Registrant lacks knowledge or information sufficient to form a belief as to the allegations contained in ¶3 of the Petition, and therefore denies the same.
4. Registrant lacks knowledge or information sufficient to form a belief as to the allegations contained in ¶4 of the Petition, and therefore denies the same.
5. Registrant lacks knowledge or information sufficient to form a belief as to the allegations contained in ¶5 of the Petition, and therefore denies the same.
6. Registrant denies the allegations contained in ¶6 of the Petition.

7. Registrant admits that the BABY REBELS and REBELS marks are similar in sound, appearance and meaning; are confusingly similar; and that the goods in the Registrant's Registration are also related to the goods in Petitioner's Application. Registrant denies the remaining allegations contained in ¶7 of the Petition.

8. Registrant denies the allegations contained in ¶8 of the Petition.

9. No allegations are contained in ¶9 of the Petition, thus no answer is required.

**AFFIRMATIVE DEFENSE**  
**(Registrant Owns Senior Rights Based on a Related Mark)**

10. Registrant is owner of U.S. Registration No. 1523581 for the mark LITTLE REBELS in a design format, as applied to goods in International Class 25 ("the '581 Registration").

11. The '581 Registration was filed on December 28, 1987, registered on February 7, 1989, and claims a date of first use in commerce of October 23, 1987.

12. Registrant's rights in the '581 Registration predate both Petitioner's filing date for Applicant's Application Serial No. 77/783,154 ("the '154 Application"), and Petitioner's claimed dates of first use in the '154 Application of September 15, 1993 and October 1, 1993.

13. In or about March 1995, Registrant began use of the mark BABY REBELS, a mark which is closely related to Registrant's LITTLE REBELS mark. The term "LITTLE" in LITTLE REBELS is merely descriptive of the users of goods under Registrant's mark, namely little children. The term "BABY" in Registrant's BABY REBELS mark is merely descriptive of an attribute of the intended users of those goods, namely babies.

14. The term REBELS is the dominant portion of Registrant's LITTLE REBELS and BABY REBELS marks.

15. The marks BABY REBELS and LITTLE REBELS are closely related to each other and marketed in conjunction with each other such that the public and Registrant's wholesale customers recognize that they are related marks within the same line of children's clothing.

16. The United States Patent and Trademark Office could have cited the '581 Registration under Section 2(d) against the '154 Application.

17. Registrant is entitled to ownership of both the '581 Registration for LITTLE REBELS and the '758 Registration for BABY REBELS, and Petitioner's '154 Application is appropriately rejected under Section 2(d) of the Trademark Act.

**WHEREFORE**, Registrant requests that this Board deny Petitioner's prayer for judgment of cancellation of the '758 Registration and enter judgment in Registrant's favor.

Dated: September 6, 2011

Respectfully submitted,

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By /Chester Rothstein/  
Chester Rothstein

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he is one of the attorneys for Registrant Children's Apparel Network, Ltd. in the captioned action, and that on the date which appears below he served a true and accurate copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSE TO PETITION FOR CANCELLATION upon Petitioner, by causing a copy thereof to be sent to Petitioner's attorneys, by first class mail, postage prepaid, to the following address:

Susan L. Heller, Esq.  
Greenberg Traurig LLP  
2450 Colorado Avenue STE 400 East  
Santa Monica, CA 90404

and by e-Mail transmission to the following address:

HellerS@gtlaw.com

/Chester Rothstein/  
Chester Rothstein

Dated: September 6, 2011  
New York, NY